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Recommendations for the Implementation of Recreation Panning, Sluicing, and Dredging Areas on the Plumas National Forest

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Title

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Abstract

Since 1981 the Plumas National Forest resource personnel have been dealing with the problem of identifying specific areas for recreationists to have the opportunity to collect minerals for recreation. Recreation panning, sluicing and dredging in this case involves the removal of gold from streams with a gold pan, sluice box, or small dredge. Each year, numerous recreationists ask for information concerning the location of areas to gold pan, sluice, or dredge on a casual basis. The reply has been that there are very few places to send people because of the numerous mining claims already existing on the forest's rivers and streams, and because of the numerous active power withdrawals on the forest that remove lands from mineral entry. The few areas where people can go for recreation panning, sluicing, and dredging are the Recreation and Scenic Zones of the Middle Fork Feather Wild and Scenic River. These areas are now overcrowded to the point where resource impacts are starting to appear.

The purpose of this paper is to study the alternatives for establishing areas on the forest for recreation panning, sluicing, and dredging. A previous study of the same topic, and the Forest Land and Resource Management Plan, recommends the withdrawal of land for recreation mining. The possibility of creating withdrawals for identified areas in the forest plan will be addressed, along with other alteratives that could provide the same recreation opportunity.

Key words: Recreation mining; recreation planning, sluicing and dredging; recreation mineral collecting.

Executive Summary

Title

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Summary

This paper is intended for the review of the District Resource personnel, District Rangers, and the Forest Supervisor of the Plumas National Forest. The discussion will show the relationship of developing potential recreation panning, sluicing, and dredging areas to the Forest Land and Resource Management Plan. Also the expected social and physical management situation, trends, and alternatives for establishing recreation panning, sluicing, and dredging areas are discussed. And finally, how the alternatives can be implemented on the forest, and what management direction and guidelines will be necessary to do the job.

Research consisted of several methods: observation, survey, interviews, and review of the literature. Observation was used to aid in the documentation of the problem. A user survey was prepared for distribution to mining groups involved in recreation panning, sluicing, and dredging on the Forest. The data collected provided information on the sociological, physical, and management situation relating to recreation panning, sluicing, and dredging, and recommendation for regulation of special areas for this activity. Conversational interviews with the public and professionals who work in wildland recreation management was used to obtain their perception of the problem and what alternatives in addition to the Forest Land and Resource Management Plan recommendation would best be used to manage the situation.

The U. S. Forest Service in California has been reluctant to establish recreation panning, sluicing, and dredging areas because of the potential conflicts with the intent and purpose of the in United States mining laws. Several key issues need to be explained to show the feasibility of establishing recreation panning, sluicing and dredging areas on the Forest. First, recreation panning, sluicing, and dredging was defined as a leisure activity collecting minerals for non-commercial purposes, and not as a mining activity. Second, the wording in administrative and statutory withdrawals do not pertain to recreation panning, sluicing and dredging. And third, it was determined that mineral is not a "valuable mineral deposit" under the definition of recreation panning, sluicing and dredging activities and mining laws to not apply. Recreation mining is not referred to by definition in Forest Service documents, but is referred to as a recreation opportunity or activity in FSM 2372.05

Since Forest Service documents do not address the definition of recreation panning, sluicing, and dredging, the following definition was recommended for Forest Service use:

Definition: Recreation panning, sluicing, and dredging is defined as a leisure activity collecting minerals for non-commercial purposes (e.g. recreation, hobby collecting, scientific or research specimens, etc.). Equipment is limited to light hand tools, gold pans, sluices, and dredges restricted to a 4 inch or less suction device.

The conclusions of a precious paper by Bob Jensen of the same topic, and the recommendation in the Forest Land and Resources Management Plan to perfect new withdrawals does not appear to be the most desirable alternative for the following reasons: 1) Interviews and meetings with the mining associations clearly indicated they would not support the removal of more land from regulation under the 1872 mining law. 2) Several locations proposed for withdrawal have "prior existing rights." 3) Other alternatives will provide the same opportunities. 4) Perfecting new withdrawals is in conflict with views of the mining community. 5) The Director of the BLM would like to keep withdrawals to a minimum.

The areas most suitable for the Plumas National Forest are acquired lands, withdrawn lands both administrative and statutory, and the creation of new withdrawals in that order. Steps for the designation of special areas is provided for implementation, along with recommended regulations for forestwide recreation panning, sluicing, and dredging areas.

Table of Contents

Executive Summary iii

Introduction 1

- Statement of Purpose 1
- Goals and Objectives 1

Methodology 1

- Project Research 1
- Development of Alternatives 2

Discussion 3

- Importance 3
- Relationship to the Forest Land and Resource Management Plan 3
- Survey Results 3
- Trends 5
- The Problem 7
- Alternatives 8
- Recommendation 16
- Steps for Implementation 16
- Management Direction 18

Summary 19

Literature Cited 21

Appendices

1. Location Map 23
2. Photos 24
3. User Survey 25
4. New 49er's Advertisement 27
5. Public Lands Title Advertisement 28

Introduction

Statement of the Problem

As early as 1967 the need had been recognized in California to provide areas for recreation panning, sluicing, and dredging on public lands, and in 1980-1981 the Plumas National Forest recognized the need to provide this type of recreation opportunity for the public. In 1983, Bob Jessen, Plumas National Forest Recreation Officer prepared a paper discussing alternatives for providing recreation mining areas on the Forest. The problem has been an increasing number of mining claims located along rivers and streams preventing public access, and the large land area in active power withdrawals prohibiting recreation mining activities on the Forest. The Plumas National Forest Land and Resource Management Plan addresses this problem and provides management direction to meet public needs for recreation panning, sluicing, and dredging opportunities.

Goal: Provide areas on the Plumas National Forest for recreation panning, sluicing, and dredging activities.

Objective: 1) Determine the feasibility of creating new withdrawals for recreation panning, sluicing, and dredging 2) examine other alternatives that would provide the same opportunity, 3) develop a strategy for implementation.

Intent

This paper is intended for the review of the Forest District Resource personnel, District Rangers, and the Forest Supervisor. The discussion to follow will include the relationship of the defined problem of recreation panning, sluicing, and dredging on the Forest and how it relates to the Forest Land and Resource Management Plan. Also the expected social and physical management situation, trends and alternatives in recreation panning, sluicing, and dredging activities will be discussed, and finally how alternatives can be implemented on the Forest, and what management direction and guidelines will be necessary to do the job.

Methodology

Project Research

Research for this project consisted of several methods: observation, survey, conversational interviews with the public, co-workers, professionals from other agencies, and review of the literature.

Information collected to document the problem has been through observation. For several years it has been observed that the public has less and less opportunity to utilize

Forest river and stream segments for general recreation activities, and in particular recreation panning, sluicing, and dredging. Visitor use records, (Recreation Information Management—RIM) maintained by the Forest Service do not reflect a use pattern since recreational mineral collecting activities on the Forest are lumped in with dispersed recreation. Photo records were available for documenting the problem with mining claims and the claimants signing and posting claims and gates in such a way as to intimidate the public (No Trespassing, Mining claim, etc.) from using portions of National Forest land (appendix 2).

A user survey was prepared for distribution to user groups involved in recreation panning, sluicing, and dredging. The purpose of the survey was to collect data that would be helpful in developing areas for collecting minerals on the Forest. The survey results also provided insight to the social, physical and management requirements for managing these areas.

Conversational interviews were used to document the public concerns and obtain ideas from other professionals who have had experience with recreation panning, sluicing, and dredging management areas. Several meetings with mining clubs and organizations were attended with the purpose of discussing and distributing the survey and to obtain concerns and opportunities for management of the mineral collecting areas. Plumas Forest Resource Officers, District Rangers, and Forest Recreation and Lands Staff were interviewed to obtain their perceptions of the problem on the Forest and how best to manage the situation. The Recreation Planner for the Bureau of Land Management (BLM) at the Redding Office was interviewed to gain insight on the procedures and methods they use in managing recreation panning, sluicing, and dredging. The BLM has had several years experience in managing special areas for recreation panning, sluicing, and dredging.

A literature search was conducted through Westfornet, Berkeley, California. The topic of recreation panning, sluicing, and dredging did not have citations that were useful for researching this subject. Literature most useful was found in Forest Service files where memos, letters, and other documents were located. Considerable time was spent at the Butte County Superior Court Law Library reviewing case law and U. S. Government statutes. Other literature reviewed was the California Mining Journal. Advertisements in the mining journal for equipment manufacturers provided opportunities to contact companies to determine past and present sales for assessing trends. The mining journal also provided contacts for mining clubs and entrepreneurs who are marketing mining claims for what appears to be recreation purposes.

Development of Alternatives

Allan Bier of the Region 5 Minerals Area Staff Group was very helpful in providing information and documentation for this paper. Mr. Bier has been working with the recreation panning, sluicing, and dredging problem for several years and was able to provide good background information. Several of the alternatives presented in this paper are an expansion of earlier work done by Mr. Bier (1). Additional alternatives were developed through discussion with others. The paper prepared by Bob Jesson[1] provides the framework for the Plumas Land and Resource Land Management Plan alternative and management direction for recreation panning sluicing, and dredging.

[1] Also a Clemson Project in 1983, titled "A Strategy for Providing for the Recreation Activities of Gold Panning and Dredging."

Discussion

Importance

Important aspects of this paper will show how the mining laws are being abused and how that abuse is affecting the rights of others to use National Forest lands. Interpretation of the mining laws and how they apply to withdrawals has affected the past opportunities for providing recreation panning, sluicing, and dredging in some cases. An important part of this discussion will be to present case law and Forest Service recreation policy that view the mining law and recreation panning, sluicing, and dredging differently than in the past.

Relationship to the Forest Land and Resource Management Plan

The Plumas Forest Land and Resource Management Plan provides general direction for recreational gold panning and dredging. The standards and guidelines recommend withdrawal from mineral entry certain lands identified in management units for this activity. The 16 areas recommended for withdrawal meet the criteria for recreation panning, sluicing, and dredging identified in Bob Jessen's paper "A Strategy for Providing for the Recreation Activities of Gold Dredging and Panning" (8). The following are the criteria developed by Bob Jessen:

Year long streams with minimum flows of 5 cfs.

There should be little or no private land near by.

There should be the possibility of finding color.

There should be good vehicle access.

The terrain should not be hazardous.

There should be some prospect of recovering most of the withdrawn area from existing claims in a few years.

The Forest Plan provides the opportunity to start an analysis of the proposed recreation panning, sluicing, and dredging area; determine the feasibility of establishing withdrawals, and the possibility of identifying other areas that meet the criteria if establishing withdrawals; is not possible.

Survey Results

A user survey was conducted to help obtain information concerning social, physical and management concerns in providing for recreation panning, sluicing, and dredging areas. The survey was distributed to the members of four mining associations and clubs who frequent the Plumas National Forest. The mining groups were the Paradise Chapter of the Western Mining Council, The Mother Lode Goldhound Association, the Feather-Yuba Miners, and Comstock Gold Prospectors Club.

The following results were obtained from the survey:

1. Most of the respondents lived in the counties surrounding the Plumas National Forest, and others were from as far away as San Diego and the San Francisco Bay Area. The majority of the respondents were from Butte, Placer, Nevada, Yuba, Sacramento counties and the Reno/Sparks area.

2. 84% of the respondents said they did not have a mining claim. These individuals said they used open areas elsewhere, used private lands when they could, used claims belonging to clubs or friends, or used portions of the Middle Fork Wild and Scenic River.

3. The rivers most frequented by the respondents were the American, Forks of the Feather, West Branch Feather River, Nelson Creek, Yuba River and Bear Creek.

4. 61% said they have gone to a National Forest looking for a place to collect minerals but found difficulty doing so. Several reported harassment from miners, locked gates, or they encountered signs discouraging use of the river. Those who did not have problems finding a location to pan, sluice or dredge said they had to do a lot of research into the area beforehand.

5. 41% said they were involved for 14 days or less per year in recreation panning, sluicing, and dredging, 18% were involved for 28 days, while 41% said they spent 90 days or more per year.

6. Participants by age group were:

51 to 65 years	42%
41 to 50 years	20%
65 years and over	18%
26 to 40 years	16%
18 to 25 years	4%

7. Most of the participants pursued their activities on weekends or vacations.

8. The equipment used varied, with the larger number indicating they used several types:

Dredge	32%
Gold Pan	33%
Sluice Box	23%
Concentrator	8%
Metal Detector	5%

The most popular size dredge was a 3" and 4".

9. 71% said it would be appropriate for the Forest Service to designate special areas for mineral collecting, 6% said no, and 23% were indifferent.

10. The definition given to recreation panning, sluicing, and dredging included: fun, temporary use of the area, collecting minerals part-time, not having to process a claim, not earning wages, family fun, club activities, small outings, pleasure, a hobby, and a rockhound.

11. The predominant types of equipment listed as being in the recreation panning, sluicing and dredging category are the gold pan, sluice box, small dredge (4" or under), metal detectors, and pick and shovels.

12. The respondents were asked about the number of people that should be in an area collecting minerals at one time. They had a high tolerance for one another. Spacing ran from 30 square feet per person to 1 person per 250 feet.

13. 54% said they did not mind obtaining a permit to use a special area. 21% said they did not want to see a permit system, and 25% said they did not care.

14. Most surprising was 95% said they would pay a fee. It was interesting to note that several respondents indicated they would not want to see a permit system, but would be willing to pay a fee to use a recreation panning, sluicing, and dredging area.

15. Several respondents had some ideas for a fee structure. Some of the comments were to base fees on improvements offered, have a flat fee per year, if you charge a fee provide a good service, 30 day maximum stay, 14 day maximum stay, and provide discounts for seniors.

16. 36% said, as members of a club, they would be willing to help run a special area. 5% said no they would not, and 59% were not committed.

17. Additional comments were: use a host program to help manage mineral collecting areas through the clubs, have the Department of Fish and Game collect your fee when issuing their dredging permits, have a one time yearly permit, open all withdrawal areas for recreation panning, sluicing, and dredging; and "we should not have to pay a fee since we already pay taxes to use the Forest."

The information gathered in this survey (appendix 3) provided information on the social, physical and management situation. These results will be used later in this paper in developing management direction for the establishment and operation of special areas for recreation panning, sluicing, and dredging areas.

Trends

The Plumas National Forest has long been known as an area to hunt for gold. In 1848 gold hunters traveled through the Forest looking for placer gold in the streams and rivers. By 1900, several small towns had developed around large mining operations. Earlier the Eocene gravels which the miners sought were washed by hydraulic operations which left many of the stream channels choked with sediment. During the Depression the Forest had a population mainly based on the mining industry.

Within the last decade, there has been a growth in recreational mining activity on the Forest. The exact number of recreationists involved is not available since visitor use records do not reflect this activity. Observation by Forest personnel over the years has seen an increase of use at two locations: Milsap Bar and the Red Bridge (La Porte-Quincy Road) where people crowd into the most accessible areas open to recreation panning, sluicing, and dredging on the Forest. Also the number of people who make inquiries at the district offices has increased.

Trends in mining, and to some extent, recreation panning, slucing, and dredging activity can be seen in the number of mining claims filed with the BLM and dredging permits issued by the California Department of Fish and Game. The number of dredging permits and mining claims filed generally has fluctuated with gold prices (figure 1). Dredging permits issued by the California Department of Fish and Game and Plan of Operations received by the BLM (figures 2,3) increased dramatically in 1980 when gold averaged $612 per ounce. Gold prices have stabilized with a gradual increase in filing of mining claims each year (figure 4). Gold production reported in California from 1978 to 1988 has

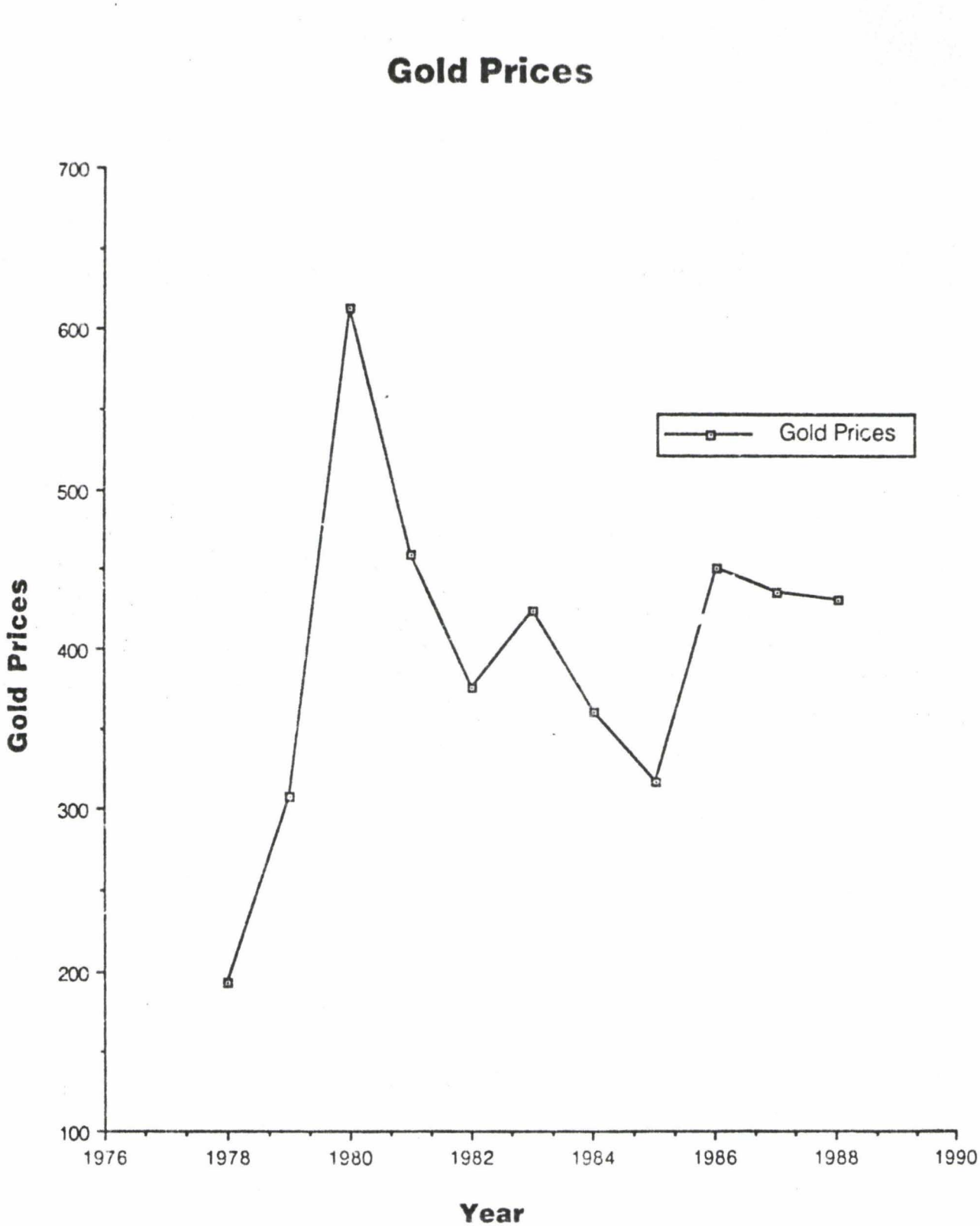
Gold Prices
700
600
500
400
300
200
100
Gold Prices
Gold Prices
1976
1978
1980
1982
1984
1986
1988
1990
Year

Figure 1

Dredging Permits Issued

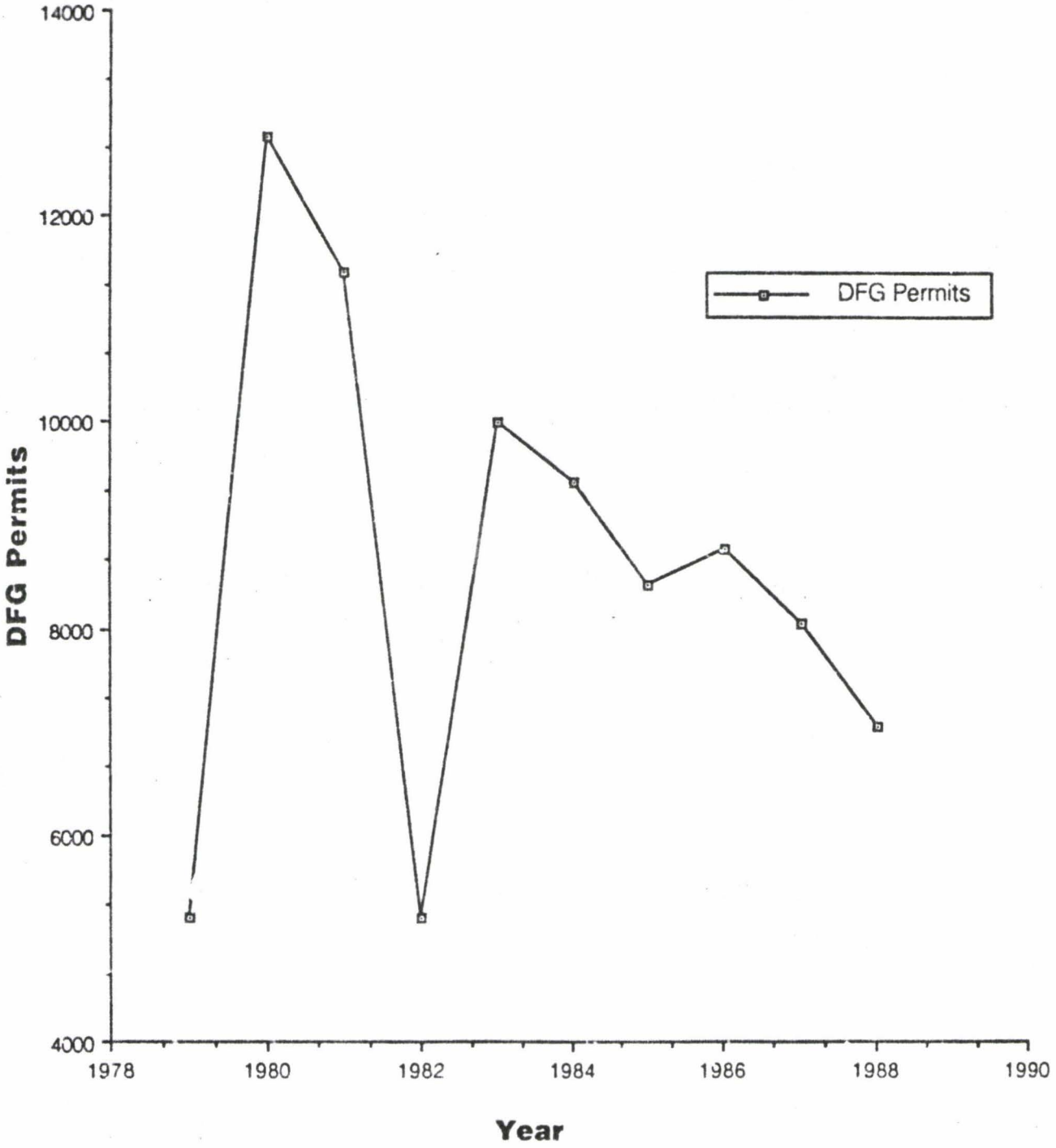

Figure 2

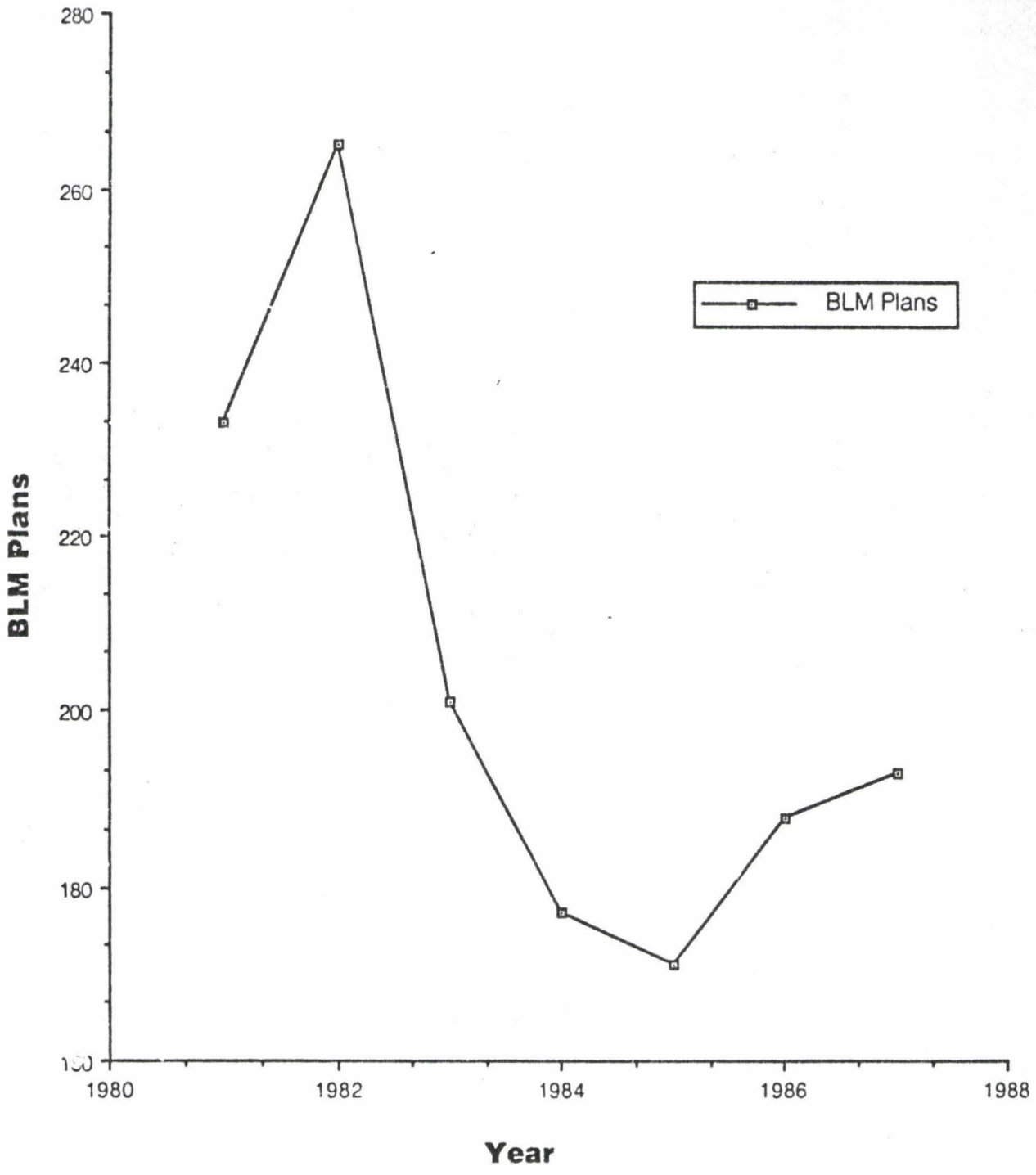
Plans of Operations Issued
280
260
240
220
200
180
100
BLM Plans
BLM Plans
1980
1982
1984
1986
1988
Year

Figure 3

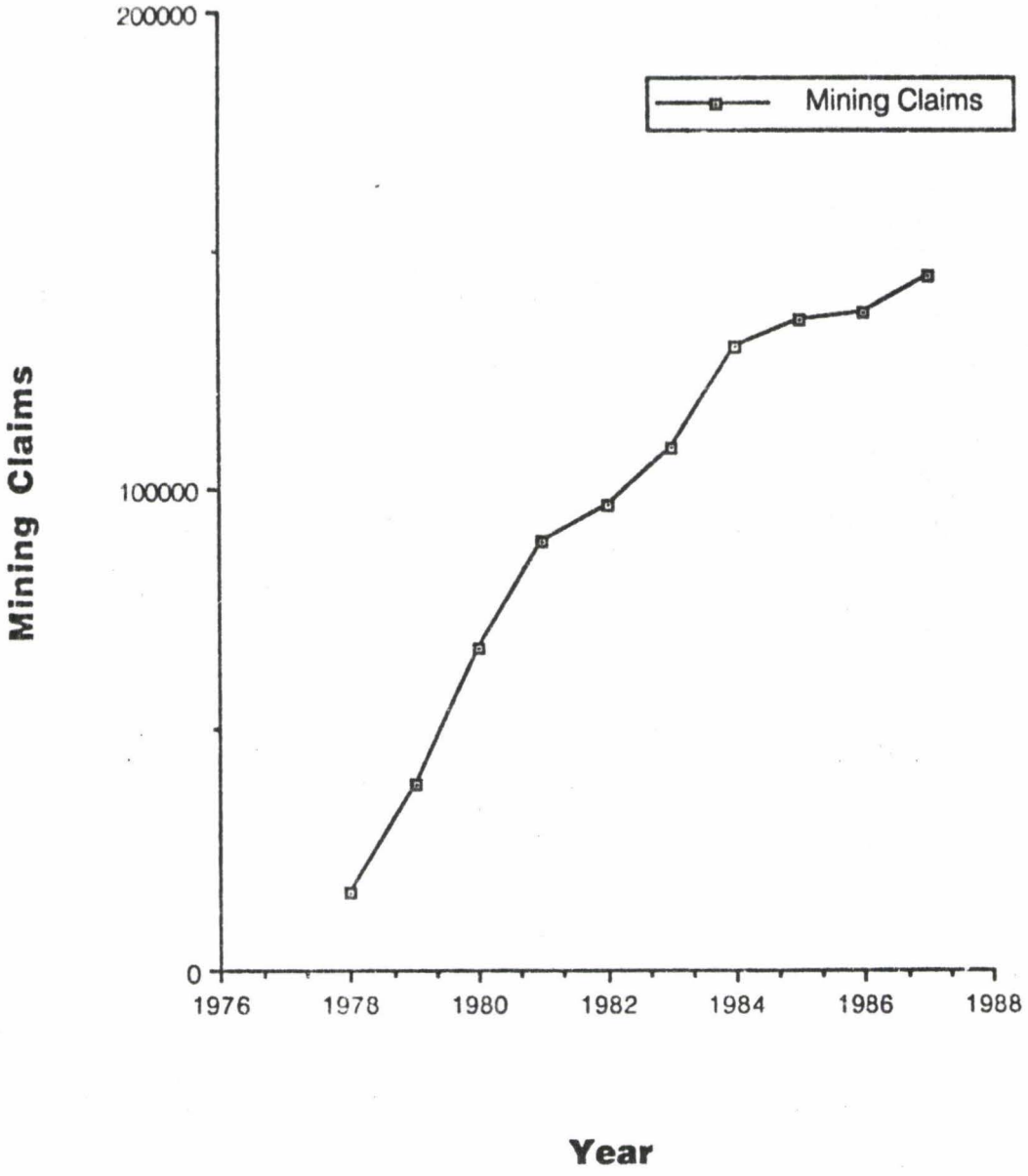
Mining Claims
200000
100000
0
Mining Claims
Mining Claims
1976
1978
1980
1982
1984
1986
1988
Year

Figure 4

shown a tremendous increase (figure 5). This increase from 1984 to 1988 is related to the stabilization of gold prices and the lag time in major mining companies getting into production phase (usually 5 years).

No clear trends in recreation planning, sluicing, and dredging can be observed from the data collected. The only conclusion that can be made is that recreation panning, sluicing, and dredging is observed to be approximately 30% of the cumulative increase in the number of mining claims filed in California. Also, the decline in dredging permits may indicate that small dredges tend to be used more for recreation rather than commercial, since the overall increase in gold production reflects commercial operations. When gold production increases one would also expect dredging permits to increase if they were used in commercial operations.

Several manufacturers of recreational mining equipment were contacted to obtain sales information which might indicate trends. Keene Manufacturing reported a decline in dredging equipment sales in the United States over the last several years. This is supported by the number of dredging permits issued during that time. Foreign sales have increased. Keene also indicated that sales of small dredges has started to increase again. Gold King, a company that manufactures sluice boxes and gold pans has indicated increased sales in this area. Other manufacturers of gold pans indicated increased sales as well.

Predicting future trends in recreation panning, sluicing, and dredging is like trying to predict what the gold price is going to be. Assuming the value of gold has the same influence as the desire to recreate, as long as gold prices stay at their present level, visitor use can be expected to increase. The dominant age group involved in this recreation activity is near, or at, the retirement age (data from user survey). The demographics of this country show that in the next 5 to 10 years the fastest growing age group will be 60 years and over. As more people retire and have more leisure time, they will be looking for the opportunity to recreate in the National Forest. The more expensive type of equipment like dredges will not increase in use unless the price of gold increases, which may help justify the higher costs. The decline in the use of dredges may not be cost effective from a commercial standpoint. The dominant equipment will be hand tools, gold pans and sluice boxes as indicated by present sales. Metal detectors will also remain popular and probably increase in use since this type of equipment is affordable to retirees.

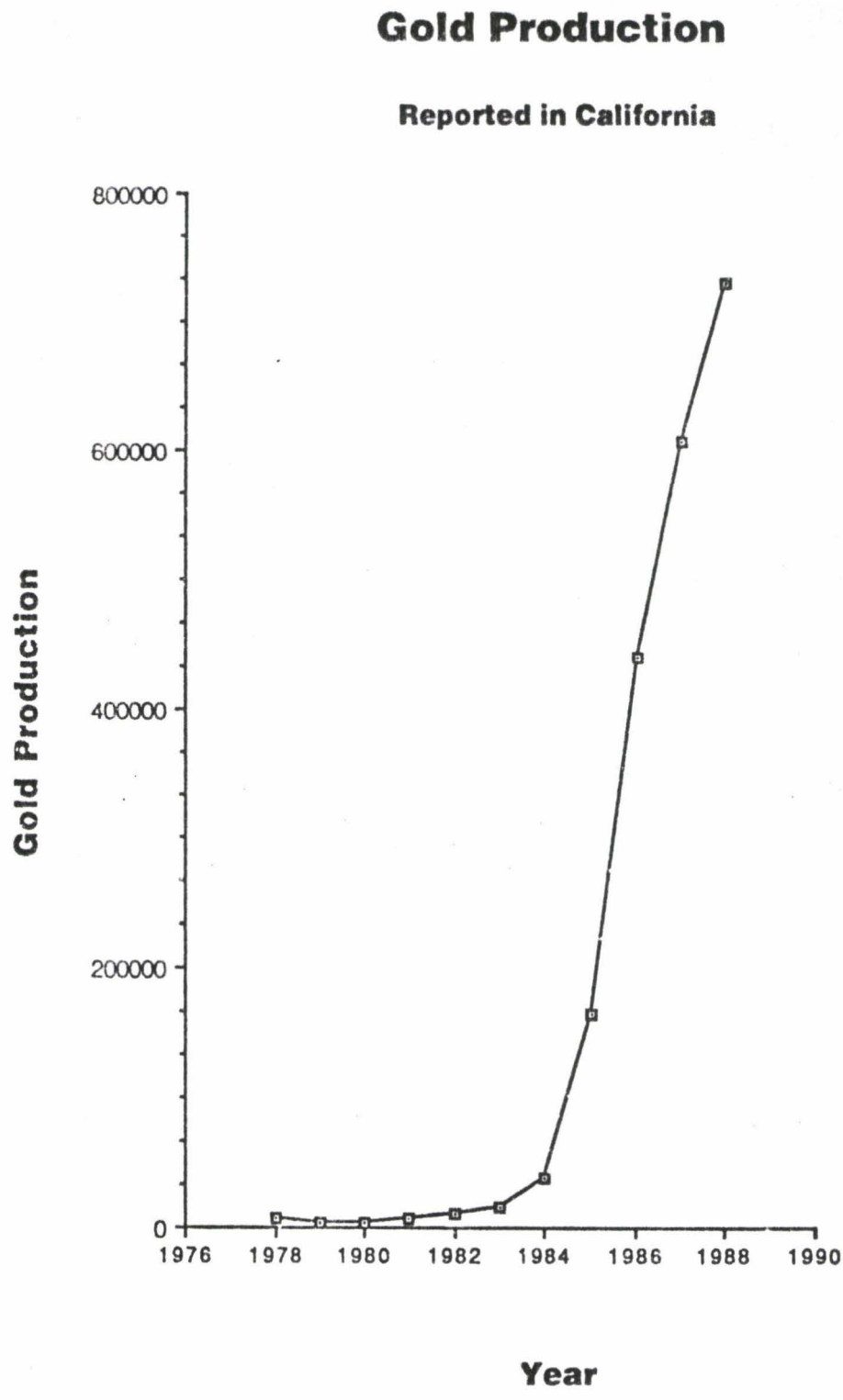
Gold Production
Reported in California
800000
600000
400000
200000
0
Gold Production
1976
1978
1980
1982
1984
1986
1988
1990
Year

Figure 5

The Problem

The Plumas National Forest is within a two hour drive of major population centers, namely Sacramento to the southwest and the Reno/Sparks area to the southeast. Many small communities that border the Forest boundaries are rapidly increasing in size, especially those along the North Sacramento Valley from Auburn to Chico. This part of California offers a clean environment ideal for light industry and an excellent location for retirement. Recreation panning, sluicing, and dredging activities like other forms of outdoor recreation offer the opportunity to be in the out-of-doors in a stream environment. Those interested in recreation panning, sluicing, and dredging are pursuing a recreation activity similar to fishing, hiking, and collecting other Forest products that provides a feel of accomplishment while also providing a form of relaxation and sense of freedom to do what they want (observation, user survey, and conversation with mining clubs and associations).

The problem is that areas for recreation panning, sluicing, and dredging are not available to meet the demand. The problem is being caused in part by:

1. Mining claims cover almost all accessible river and stream segments on the Forest.

2. Large acreage of Forest land is in withdrawal status, i.e. power withdrawals or within portions of the Wild and Scenic River withdrawals.

3. Forest Service interpretation in Region 5 of the mining laws related to recreation panning, sluicing, and dredging has made it difficult to create new withdrawals or utilize existing withdrawals for recreation panning, sluicing, or dredging.

On the Plumas National Forest approximately 30% of the mining claimants meet the definition of a recreation mineral collector (observation). These claims are worked by families on a part-time basis on weekends or vacations. Many of these claimants do not make a return on their investment, and do not have Plans of Operations that show a progressive mineral program with a sequence of prospecting, exploration, and processing. On the Plumas National Forest it is safe to say that a portion of the new filings can be attributed in part to mining clubs and other people desiring to have a parcel of land for recreation purposes (appendix 4). Mining clubs advertise "50,000 acres of mining claims available for members" (Gold Prospectors, 1988) and "30 linear miles of claims" (New 49'ers). Others have made a business of selling mining claims or marketing information on how to obtain one. A good example is the Public Lands Title who advertises that they will find you a mining claim for a fee. They openly imply that you can claim government land similar to homesteading (appendix 5). Many of these activities are an abuse of the mining laws, but legal council to both the Forest Service and BLM claim there is a fine line on the legality and that nothing can be done short of changing the mining laws (in service memos).

Because the recreation mineral collector has so very few places to go on the Forest, they are competing for limited space to participate in panning, sluicing, or dredging. The two locations on the Forest open to recreation panning, sluicing, and dredging are experiencing resource problems caused by overcrowding. More areas for recreation panning, sluicing, and dredging are needed on the Plumas Forest to relieve the overcrowding, and regulations are needed to prevent resource problems for these areas.

The Plumas Land and Resource Management Plan addresses the need for additional recreation panning, sluicing, and dredging areas and recommends the withdrawal of new areas from mineral entry. The problem with this alternative and the use of existing withdrawals is the interpretation of the wording in the statutes authorizing the Secretary of Agriculture to create a withdrawal. Mining activities in administrative or statutory withdrawals are prohibited by such language as "withdrawn from the operations of the 1872 mining laws," or "Withdrawn from location and entry under the mining laws." Region 5 interpretation is that "mining is mining," and there is no distinction between recreation mining and the real thing under the mining laws.

Alternatives

The purpose of this section is to analyze the feasibility of establishing new withdrawals as recommended in the Forest Land and Resource Management Plan, and to analyze other alternatives that would also provide for recreation panning, sluicing, and dredging areas on the Forest. The alternatives that will be analyzed are; 1) Creating new withdrawals, 2) Using existing withdrawals, 3) Acquired lands, 4) Purchase a mining claim, 5) Encourage mining clubs, and 6) Create a Trust. Using acquired land was determined to be most suitable, followed by using existing withdrawals and creating new withdrawals.

BACKGROUND INFORMATION

Recreation panning, sluicing, and dredging is the term preferred by the Plumas National Forest because it best describes the methods of extracting minerals for fun and enjoyment.

The definitions of recreation panning, sluicing, and dredging were found as follows:

Recreation Mineral Collecting: "The extraction of minerals on an intermittent basis, using low capacity less than 2 cubic yards of material/day with light duty equipment, not involving heavy duty equipment such as mechanized earth-moving equipment, i.e. backhoes, bulldozers, etc." (BLM, 1984)

"Rockhounding is an amateur activity of hunting and collecting rocks and minerals as a hobby." (USFS, Region 8)

"Recreation - means of getting diversion or entertainment." (Websters Dictionary, 3rd ed.)

"Rockhound: one who hunts and collects gemstones and minerals as a hobby." (Websters Dictionary, 3rd ed.)

"Hardrock mineral specimen collection - recreation, hobby collecting, scientific or research specimens." (43 CFR 3560.7)

And finally what it is not:

"Miner - one engaged in the business or occupation of getting ore or other natural substances out of the earth." (Websters Dictionary, 3rd ed.)

"Mining for less than wages is recreation, not mining." U. S. vs Stevens (11)

Recreation mining is not referred to by definition in Forest Service documents, but is referred to as a recreation opportunity or activity in FSM 2372.05. Since Forest Service documents do not address the definition of recreation panning, sluicing, and dredging, the following definition is recommended for Forest Service use:

Definition: Recreation panning, sluicing, and dredging is defined as a leisure activity collecting minerals for non-commercial purposes (e.g. recreation, hobby collecting, scientific or research specimens, etc.). Equipment is limited to light hand tools, gold pans, sluices, and dredges restricted to a 4 inch or less suction device.

The above definition is recommended by this author because it combines legal ideas of the activity found in the 43 CFR 3560.7, case citation in U. S. vs Stevens, and uses wording in the definitions given by recreationists in the user survey.

The authority to allow recreation panning, sluicing, and dredging in an administrative or statutory withdrawal has been in question. The Plumas National Forest in 1981 requested

an opinion from the Regional Office concerning recreation mining authorization in withdrawals (13).

Joseph D. Cummings, Deputy Assistant General Counsel at the time provided the Regional Forester with an opinion concerning recreation mining in 1983 (6). The letter to the Regional Forester made reference to a March 15, 1967 opinion given by the Associate Solicitor for Public Lands, Thomas J. Cavanaugh. Reference was also made to a 1944 opinion by the Office of Solicitor to Lyle F. Watts, Chief of the Forest Service, concerning commercial mining in withdrawn lands. Mr. Cummings quoted the solicitor's opinion given in 1967 as saying, "We construe this advice as meaning there is not authority, except perhaps the Minerals Materials Act, 30 U.S.C. 601, et. seq., to dispose of minerals, e.g. recreation mining, on lands withdrawn from the operation of the 1872 Mining laws (4).

The issue is one of the phrases used in administrative or statutory withdrawals concerning mining. These phases are:

"Withdrawn from the...operation of the Mining Laws of 1872"

"Withdrawn from all forms of appropriation under the public land laws"

"Withdrawn...from location and entry from the Mining Laws"

Mr. Cummings was unaware of any judicial or administrative precedent addressing the question of whether certain mining activities under the 1872 Mining Laws could continue in withdrawn areas based on the above language. He stated that based on his preliminary review none of the phrases listed would permit the disposal of minerals under the 1872 Mining Law from withdrawn lands. Mr. Cummings also quoted the opinion of Robert Shield, Solicitor (opinion no. 5081, 1944), "Absent express statutory authority, there is no implicit authority under the Organic Act of 1897 U.S.C. 478, to dispose of minerals from National Forest lands (12). Mr. Shields was referring to a commercial operation in withdrawn lands. Mr. Cummings also provided the opinion that the Multiple-Use Sustained-Yield Act 16 U.S.C. 528, does not provide the authority to dispose of minerals. Mr. Cummings concluded with saying that he suggested preparation of legislation is needed to authorize recreation mining for the circumstances discussed.

In order to show that recreation panning, sluicing, and dredging does not pertain to the 1872 Mining Law, it is necessary to explain that mineral is not a "valuable mineral deposit." The General Mining Law of 1872 (30 U.S.C. 21-54) states that "except as otherwise provided, the valuable mineral deposits in lands belonging to the United States...shall be open to exploration and purchase." It was not until 1894 that a definition was given for "valuable mineral deposit." In a case ruling, Castle vs Womble, "Where minerals have been found and the evidence is of such character that a person of ordinary prudence would be justified in expending his labor and means with the reasonable expectations of developing a valuable mine, the requirements of the statute (1872 Mining Law) has been met. This ruling has been referred to as the "prudent man test." In the conversations with professionals, the mining public, and the agency memos and letters it could not be found that the amount of gold extracted or the intent of extraction by recreationists could meet the "prudent man test."

Recent rulings provided by agency administrative law judges will help to show that the General Mining Law and its amendments is for commercial mining activity and does not pertain to recreation panning, sluicing, and dredging.

In U. S. vs Coleman (1968) 390 U. S. 599,88 S. ct 1327: "Under the mining laws, Congress has made public lands available to people for the purpose of mining valuable minerals and not for other purposes. The obvious intent was to reward and encourage the discovery of minerals that were valuable in the economic sense" (11).

In Bonen vs Sil Flo Corp. (1969) 451 P. 2d 626: "The purpose of the mining law is to encourage development of public domain by bonafide miners" (11).

In U. S. vs Arcanad, 23 IBLA 226, GFS (MIN) 7 (1976), several individuals were working claims that returned a small amount of gold. The administrative law judge held that "recreation mining is legitimate use of federal land." But "returns which are so meager that they will not attract the labor and means of a person of ordinary prudence are not sufficient to demonstrate discovery of a valuable mineral deposit" (11).

And in U. S. vs Prowell, 52 IBLA 261, GFS (MIN) 50 (1981): "Recovery of $1,000.00 worth of gold for three months labor does not appear to be the kind of operation which one would classify as commercial, it is the kind of mining that furnishes recreation possibilities" (11).

These rulings do not pertain specifically to withdrawn lands, but their value provides distinction between what is recreational mineral collecting and what is the commercial mining. If recreation panning, sluicing, and dredging is separate from the ruling of the 1872 Mining Laws, then the phrases referred to in withdrawal statues would not apply.

The Mining Laws never considered mining to be anything else but a commercial activity. The Mining Laws require one to locate a valuable mineral deposit, before staking a claim, which can lead to patent of public lands. Obtaining minerals that are not considered a valuable mineral deposit for recreation surely does not fall within the category of commercial mining.

1. Create New Withdrawals.

The mechanics of establishing new withdrawals is not difficult. The Secretary of Agriculture usually proceeds through the Department of the Interior to perfect withdrawals on National Forest lands. The procedure is found in 43 CFR 2300 (16). The authority for the Secretary of Agriculture to establish withdrawals for administrative purposes is found in the Federal Land Policy Management Act of 1976 (18).

Section 204 (2) of the Federal Land Policy Management Act requests that certain background information be provided to the Secretary of Interior concerning the lands recommended for withdrawal. The following statements are from Section 204 and will be used to analyze the alternative of establishing new withdrawals.

a) Statement: "A clear explanation of the proposed use of the land involved which led to the withdrawals." Response: The proposed use of the lands for withdrawal is for recreation, and recreation panning, sluicing, and dredging, specifically.

b) Statement: "An inventory and evaluation of the current natural resources uses and values of the site." Response: The natural resource values of the sites are recreation wildlife and watershed.

c) Statement: "An identification of the present users of the land involved, and how they will be affected." Response: Most of the site users are recreationists involved in camping, fishing, hunting and day use activities. Several sites have existing mining claims.

d) Statement: "An analysis of the manner in which existing and potential resources are incompatible with or in conflict with the proposed use." Response: The main conflict would be with the claimants who have "prior existing rights." They would want to retain their claims which would either require compensation to the claimant or cause a hardship with the mining community. A validity exam will have to be done in a contest situation.

e) Statement: "An analysis of the manner in which such lands will be used in relation to the specific requirements for the proposed use." Response: Regulations will be established for recreation panning, sluicing, and dredging activities. Other recreation activities will be permitted at the same time which will have to follow regulation presently existing that pertain to use and occupancy of National Forest Lands.

f) Statement: "A statement as to whether any suitable alternative sites are available for the proposed use or uses the withdrawal would displace." Response: Other alternatives exist that would provide recreation panning, sluicing, and dredging areas that would not conflict with existing prior rights. These sites are existing power withdrawals and acquired lands. Although recreation has a higher beneficial use than the mining claims (the claims in question would not meet a validity test), the time to perfect a contest would be a considerable cost to the government.

g) Statement: "A statement of the consultation which has been or will be had with other Federal departments and agencies with regional, state, and local government bodies, and other appropriate individuals and groups." Response: The U. S. Forest Service Regional Office Minerals Area group has stated they would find it difficult to support withdrawals for recreation panning, sluicing, and dredging areas since it would conflict with other mining uses. The Director of the Bureau of Land Management in California has a policy of keeping withdrawals to a minimum so as not to remove more land from regulation under the public land laws.

Conclusion: The recommendation in the Forest Land and Resources Management Plan to perfect new withdrawals does not appear to be the most desirable alternative for the following reasons:

1. **Several locations proposed for withdrawal have "prior existing rights."**
2. **Other alternatives will provide the same opportunities.**
3. **Perfecting new withdrawals is in conflict with views of the mining community.**
4. **The Director of the BLM would like to keep withdrawals to a minimum.**
5. **Interviews and meetings with the mining associations clearly indicated they would not support the removal of more land from regulation under the 1872 mining law.**

2. Use Existing Withdrawals[2]

Since recreation panning, sluicing, and dredging as defined, is not a commercial activity, and by definition it is a recreation activity, the 1872 mining laws do not apply. And since the phrases in the withdrawal language pertain to commercial mining under the 1872 Mining Law, recreation panning, sluicing, and dredging should not be prohibited in existing withdrawals.

Special Area designation will authorize recreation panning, sluicing and dredging in active withdrawals. The Forest Service manual (FSM 2372, April, 1986) recognizes "recreation mining" on National Forest lands. Forest Service policy (FSM 2372.03) provides for the designation of special areas that have unique or special value. Under FSM 2372.05 (7), recreation areas are defined as a unit of land that has been administratively designated for recreation opportunities such as rockhounding or recreation mining. The Forest Service manual authorizes recreation panning, sluicing, and dredging and makes no distinction between public domain, acquired lands, or withdrawn lands.

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[2] The use of the word withdrawal in this section refers to administrative and statutory withdrawals. Power withdrawals under PL 359 are not being considered here as the power withdrawals for recretion panning, sluicing, and dredging, only those withdrwals that are under an active power license with the Federal Energy Regulatory Commission.

The concern of enactment of special legislation recommended by Mr. Cummings to authorize recreation panning, sluicing, and dredging can be addressed in the Federal Register. In 36 CFR 294, the designation of special areas requires notification in the Federal Register. The Secretary of Agriculture has authority to prepare regulations that govern the use and occupancy of National Forest Lands. When Federal agencies prepare their regulations and orders, they have the same impact as the public statutes, and the decisions have the same authority as case law (5).

Other federal agencies have been dealing with the issue of withdrawn lands and the opportunity they offer for recreation panning, sluicing, and dredging. The BLM in California has implemented a permit system for special areas in administrative withdrawals and withdrawn lands in a Wild and Scenic River system, providing administrative precedent for recreation panning, sluicing, and dredging in withdrawals.

The BLM permits such use under the authority of 43 CFR 8372.1 1-2 for Special Area Designation. Rules and regulations were established in 1987 and requirements are met for notifying the public of new actions to provide for recreational panning, sluicing, and dredging. A special recreation permit is required so the numbers and distribution of such recreational users can be controlled to prevent unnecessary environmental degradation, eliminate conflicts, and generally provide for a higher quality recreation experience.

And the Rogue River National Forest has been providing recreational panning and dredging opportunities in withdrawals since 1987 under special use permit authorization. Region 6 FSM was amended in November 1987 to include definitions and regulate fees.

The Plumas National Forest has several power withdrawals that will provide ideal locations for recreation panning, sluicing, and dredging where access is suitable. Under 18 CFR 2, 2.7, Recreation Development at Licensed Projects, licensed power projects have specified wording that provides for recreation activities in cooperation with the land management agencies involved. The power companies are required by virtue of their license to provide recreation opportunities in conjunction with power development.

The three agencies on the Plumas Forest who administer power projects are the Yuba County Water Agency, Oroville-Wyandotte Irrigation Company, and Pacific Gas and Electric. Both the Yuba County Water Agency and the Oroville-Wyandotte Irrigation Company have expressed a willingness to cooperate in providing recreation panning, sluicing, and dredging areas.

The Director's Office of The Federal Energy Regulatory Commission in Washington D.C. has stated that recreation panning, sluicing, and dredging is an acceptable activity within the power project boundaries as long as agreement could be reached with the licensees.

Conclusion: Using existing withdrawals therefore is desirable for the Plumas Natural Forest for the following reasons:

1. Interviews and meetings with the mining associations clearly indicate they would prefer the use of existing withdrawals. This alternative has the most public support because it would not remove more public domain lands from jurisdiction under the 1872 mining lands.

2. Adequate acreage and access would meet public needs.

3. There would not be conflicts with prior existing rights.

3. Acquired Lands

The Act of March 4, 1917 (16 U.S.C. 520) authorizes the Secretary of Interior to dispose of minerals on lands acquired under the Weeks Law. Weeks Law lands do not have public domain status and are not subject to the 1872 Mining Law. On April 22, 1986

notice was given in the Federal Register, pg. 15249 for new regulations pertaining to Hardrock Mineral leasing. This regulation provides direction to the Secretary of Interior and the Secretary of Agriculture for the permitting of mineral specimen collection on acquired lands.

Hard Rock Mineral Leasing regulations are now found in 43 CFR 3560.7, Hardrock Mineral Specimen Collection. The regulations state "The surface management agency having jurisdiction over the lands shall determine which areas and under what conditions mineral specimens may be collected for non-commercial purposes (e.g., recreation, hobby collecting, scientific or research specimens, etc.). This regulation provides, at the discretion of the surface management agency, the authority to issue permits and determine the required fee, if any.

Conclusion: This is a viable alternative for the Plumas National Forest since acquired lands exist that could provide excellent mineral collection opportunities. These areas would be designated as special areas with permits issued and, fees collected under authority of 43 CFR 3560.7

4. Purchase a Mining Claim

The Forest Service would recommend to each person who contacts District Offices looking for areas to recreational pan, sluice and dredge to purchase a mining claim. Recreation mining activities then would be administered under 36 CFR 228 Subpart A, which requires mining claimants to prepare a plan of operation if significant impacts are likely to occur.

Conclusion: This would be a wrongful act if a Forest Officer recommended to the public to purchase a mining claim for recreation purposes. If a person wishes to prospect, develop, and process the mineral resource, he or she may do so according to the 1872 Mining Law and amendments and within the regulations found in 36 CFR 228 subpart A. The purpose of the Mining Laws is to promote development of the mineral resource, not to open public lands for recreation, residential and other non-mining uses. In U. S. vs Coleman it was held that Congress has made public lands for the purpose of mining valuable minerals and not for other purposes. And in Bonen vs Sil Flo Corp., "the purpose of the mining law is to encourage development of public domain by bonafide miners" (11).

This is not recommended as a good alternative.

5. Encourage Mining Clubs

In a letter from Don Robinson, past president of the Mother Lode Miners Association, it was stated that there are two distinct types of mining clubs (9).

a) Associations for small miners is a type of group formed to promote mining from every aspect. These generally are educational, non-profit organizations that make up a large percentage of associations. Mining claims are generally not made available to members as part of the club activities.

b) Mining business clubs are generally for-profit organizations that provide mining claims to members. They advertise that members may use the club's claims for prospecting. A fee is charged anywhere from $15 to $3,200.

The mining clubs for business are of concern because there are some questions as to whether they are legally using mining claims for the purposes they were intended under the 1872 Mining Law. Several of the business clubs obtain their claims through donation or staking committees, or they are simply owned by members of the club for others to use. The club members are entitled to use the claims for recreation panning, sluicing, and dredging purposes. Areas and facilities are offered for overnight camping. A member,

after prospecting, may start a commercial operation by leasing or purchasing the claim from the club or club members. Most members enjoy the temporary use of the claim and move from one claim to another.

The potential is tremendous for the business clubs to expand. One club in northern California advertises over 40 miles of river front under claim, while another has stated 50,000 acres of mining claims available (10). The Plumas National Forest has one club with several claims now and potentially more under new filing.

The business type clubs typically advertise:

Training: During the mining season, we have an ongoing program, providing our members with the best training opportunities available today in sampling, high banking, gold dredging, panning, amalgamation and gold clean-up procedures, and other gold mining techniques.

Camping: Members may camp free and mine on our claims as long as they like. We are expanding camping areas on a continuous basis. Commercial campgrounds, RV parks and motels are also locally available.

Friendship: The New 49er's are miners really willing to help each other. The camaraderie we have created makes our club atmosphere a truly great experience. We are: "Miners helping miners!" (appendix 4).

The Happy Camp Ranger District on the Klamath National Forest has a nationally known club working under a Plan of Operations. Communications with the District Ranger found that despite several problems, the arrangement with the club has several benefits. The club has over 200 members on the claim during the season. The biggest problem has been getting the groups to disperse while camping on the claims. Damage to riparian vegetation has been noted several times. The club has an active rules committee that develops a code of conduct for the members which helps maintain order on the claims. The District Ranger reported that a good deal of administration of the Plan of Operations concerns approving camping areas and handling sanitation problems. A big problem has also been resolving conflicts between fishermen who want access to the river and white water rafters who have to travel across the claims to access the water.

Several advantages were apparent. The club is under one Plan of Operations and they do a fairly good job of managing themselves. There could be a situation without the club where several Plans of Operations would have to be administered for more than one mining claim. Members tend to be retired people, middle class and upper middle class, who spend 2 to 6 weeks on the claims. The situation has also proved good business for the local economy.

These clubs do offer several benefits to the public and to the land management agency. But the legality of these businesses' use of federal lands under the Mining Laws is in doubt. If the clubs are working mining claims for fun and enjoyment as a recreation activity, training, or friendship or camaraderie, then the activity should be regulated under 36 CFR 251.51 (a), or (k), Special Use Authorization, and not mining regulations (36 CFR 228) (7). The question needs to be addressed if the clubs are really conducting mining operations or are they marketing memberships? And if they are conducting mining operations are they doing so at a profit? If they do not meet the "prudent man test," the claims could be held invalid.

In U. S. vs Stevens, 81 I.D. 83 (1974), the U. S. Government contested the claims on the grounds they were not being used for mining. The claimant granted privileges for others to collect gemstones on the claims. The claimant was advertising that people may purchase a permit to collect gemstones and camp on his claims. It was held that mining was not being conducted, the only operation was an attempt to sell memberships to others. The claims were invalidated (11).

In U. S. vs Springer, 321 F. Supp 625 (D. Calif. 1970), it was held that running a resort hotel and mineral spa was not a related use to mining (11).

And in U. S. vs Prowell, 52 IBLA 251, GFS (min) 50 (1981), "Recovery of $1,000 worth of gold for three months labor does not appear to be the kind of operation which one would classify as commercial. It is the kind of mining that furnishes recreation possibilities" (11).

Most people using small dredges (less than 4 inches diameter) extract approximately 1/4 ounce of gold per day, or an average of about $100 per day once they are set up to operate. If one were to work every weekend for 3 months, then $1,200 would be the gross take. If one were to work six weeks straight, then the gross take would be $3,000 for 1.5 months, or equivalent to $6,000 per 3 months. Subtracting the cost of joining the club plus cost for equipment an supplies, the net profit would be marginal at best under the ruing of U. S. vs Prowell.

Conclusion: Any new clubs proposing a Plan of Operations should be looked at closely for their intent under the mining laws. If it appears that recreation opportunities are the major purpose of the club being on the claim, a special use authorization should be considered.

Another possible approach to working with the mining clubs would be to set up a special area that could be managed as a partnership with the club. Recreation panning, sluicing, and dredging opportunities could be provided to the club members as well as the general public. The arrangement would work much the same way as the host program in developed campgrounds. Conversation with many of the mining clubs and written comments on the user survey expressed interest in helping the Forest Service manage a special area. This alternative has possibilities and should be looked into further.

6. Trust

The opportunity presently exists for the Forest Service to receive a Quit Claim Deed for mining claims and hold them in trust for public benefit. On the Plumas and Klamath National Forests, individuals owning mining claims have offered their claims for the Forest Service to provide mineral collection areas for panning, sluicing, and dredging. This approach for providing recreation mineral collection areas helps to demonstrate public sentiment for the need to provide this type of recreation opportunity.

Many government agencies are empowered to hold and manage trust. Articles of incorporation, charters or legislation may grant such authority. "The United States occasionally acts as trustee by virtue of an act of Congress and various states administer trusts for general social benefit of the inhabitants" (2). The U. S. Forest Service could set up such a trust, since there is no bar to trust creation. If it was not thought to be favorable by someone, the Forest Service could not be sued, but impediment to enforcement of the trust could occur and action would be taken to remove the Forest Service as trustee.

The powers of government to act as a trustee may be doubtful in this case. "For example, a gift to a city town, or village in trust to aid education or improve streets or parks for public use would seem proper (2), but for the U. S. Government to hold a trust for a mining claim for public benefit may not. If the Forest Service takes an active role in carrying out the charges of a trust, legal requirements would have to be met for holding the claims, i.e. location notice filing and recording the annual assessment work with the BLM and Counties. This is a questionable role for the Forest Service to take.

Conclusion: As mentioned before, holding a mining claim for recreation purposes would be in conflict with the Mining Laws. Prospecting, exploration, and processing of a valuable mineral deposit would not be the purpose of holding the mining claim. Recovering small amounts of gold, as would occur in this situation, would not be enough to constitute a discovery requirement necessary for a valid claim. A claim held in trust for recreational purposes could not meet the requirements of discovery and would not support or maintain the location of a mining claim. In Region 5 no formal legal opinion has been provided. To the knowledge of this author no National Forest has attempted to form a trust for the purposes stated. There are several benefits of a mining claim trust, but

legal questions remain to be answered. This alternative may not be suitable for providing recreation mineral collection special areas at this time.

Recommendation

Areas considered acceptable for designation of "recreation panning, sluicing, and dredging areas" will include: 1) acquired lands, 2) power site withdrawals with the consent of the surface management agency, 3) existing recreation administrative withdrawals, and 4) new withdrawals for the purpose of recreation panning, sluicing, and dredging in that order. New withdrawals as recommended in the Plumas Forest Land and Resource Management Plan are not the best alternative for the following reasons: The mining community supports the use of existing withdrawals for recreation panning, sluicing, and dredging and recommend not to have more land removed from regulation under the Mining Laws; the Director of the BLM has stated that he would like to see the creation of new withdrawals held to a minimum and recommend those that are absolutely necessary; and other alternatives areas are available that will provide the same opportunity.

The concern of enactment of special legislation recommended by Mr. Cummings to authorize recreation panning, sluicing, and dredging can be addressed in the Federal Register. In 36 CFR 294, the designation of special areas requires notification in the Federal Register. The Secretary of Agriculture has authority to prepare regulations that govern the use and occupancy of National Forest Lands. When Federal agencies prepare their regulations and orders, they have the same impact as the public statutes, and the decisions have the same authority as case law (5).

The process would be to establish special areas within designated withdrawals such as the Middle Fork Wild and Scenic River and active power withdrawals. Under Forest Service Policy recreation areas can be administratively designated for Recreation Mining Activities (FSM 2372.05). Under special use authorizations, provisions would be made to prevent environmental degradation, eliminate user conflicts, and provide for a higher quality recreation opportunity.

Steps for Implementation

The authority for establishing special recreation areas in active power withdrawals and administrative power withdrawals and on acquired lands for the purposes of permitting and regulating recreation panning, sluicing, and dredging has been discussed. The authority for designating special areas is found in the Organic Act, June 4, 1897, 16 U.S.C. 551. The Organic Act authorizes the Secretary of Agriculture to issue regulations for the occupancy and use of National Forest Lands. The Code of Federal Regulations (36 CFR 294.1) provides rules that govern the designation of special areas for National Forests. The Forest Supervisor may so designate single tracts of land not more than 160 acres. These areas are to be specifically managed for recreation use.

The objective of designating these special areas would be to provide regulations to prevent unnecessary environmental degradation, eliminate user conflicts and provide for a higher quality recreational opportunity. These areas would be designated along rivers and streams that would provide the opportunity for Forest users to find a little "color," and yet not enough to be considered a valuable mineral deposit. The amount of gold that could be extracted through regulation would maintain this activity as a recreation event

and would not be considered commercial operations to be regulated by the Mining Laws or prohibited by virtue of the language addressing mining in withdrawals.

Forest Service policy for special area designation is to protect and manage areas with special or unique values. These areas are special and unique because they are in quality areas along rivers and streams where users will be free of harassment from mining claimants and others to pursue recreation panning, sluicing, and dredging activities (FSM 2372). Under FSM 2372.7 Recreation Area, recreation mining is authorized as a recreation opportunity or activity along with hiking, rock hounding, and photography.

These areas will be managed either as semi-primitive, semi-primitive roaded or roaded natural areas as per the Forest Service Recreation Opportunity Spectrum Classification. A rustic character will be maintained with minimum facilities consisting of toilets, tables and campfire rings. Roads or trails will not be developed in conjunction with management of the designated areas. Some access spurs may be needed to help disperse use; major access will be by existing roads.

The Forest Supervisor will make the decision to approve the designation of the special areas. The decision will be made based on an environmental assessment as per the Environmental Policy act (FSM 1950). Management direction will be prepared for inclusion as an amendment to the Forest Land and Resource Management Plan. The following steps will be followed to finalize the special area designation process.

1. Prepare an environmental analysis for recreation panning, sluicing, and dredging special areas.

2. Develop a recreation panning, sluicing, and dredging special area management plan. This will include development of regulations, permitting system, and identification of specific site location through an inventory of all acquired lands, administrative and statutory withdrawals on the Forest.

3. Prepare documents for the Forest Plan amendment to include new special areas and management direction for recreation panning, sluicing, and dredging.

4. Follow procedures in the Federal Register Handbook for notification in the Federal Register of the special area designations for the Plumas National Forest.

5. Development of a system for collecting fees either a special use permit, or fee at designated recreation panning, sluicing, and dredging special areas.

6. Develop documents for inclusion of fees for recreation panning, sluicing, and dredging in new legislation enacting fee schedules.

7. Sign, post regulations, and designate boundaries on the ground for the specific special areas.

8. Develop Forest maps and brochures for recreation panning, sluicing, and dredging areas.

Authority for the Forest Service to require special use permits for recreation panning, sluicing, and dredging areas is found in 36 CFR 251.53 (k), permits are required under the Land and Water Conservation Fund Act of September 3, 1964. This act authorizes government agencies to permit recreation events and other special recreation uses.

Section 4 of the Land and Water Conservation Fund Act 30 stat. 35 (16 USC 551) also authorizes the Forest Service to charge fees for certain recreation activities. Specific direction is provided in this act as to how fees will be established.

Fees must be fair and equitable.

Fees must reflect direct and indirect cost to the government.

Benefits must be provided to the recipients.

Public interest must be served.

Fees must be comparable to fees charged elsewhere.

Fee collection must be feasible.

Where the Forest decides to charge fees for recreation panning, sluicing, and dredging special areas, a notice will be included in the Federal Register. All areas designated for fee collection will be posted. The fee structure will be based on what other agencies are charging for the same service and what the public indicated they would be willing to pay based on the user survey for recreation panning, sluicing, and dredging areas.

Management Direction for Recreation Panning, Sluicing, and Dredging Areas

Proposed Regulations for the Plumas National Forest

Definition: Recreation panning, sluicing, and dredging is defined as a leisure activity for collection of minerals for non-commercial purposes (e.g. recreation, hobby collecting, scientific or research specimens, etc.). Equipment is limited to light hand tools, gold pans, sluices and dredges restricted to a 4 inch or less suction device.

Dredges larger than 4 inches, high banking equipment, mechanized earth moving equipment, road or trail construction, occupancy, and removal of vegetation is considered a significant impact and shall be regulated under the authority of 36 CFR 228.

Proposed regulations:

1. All dredging shall occur within the active stream channel.

2. Panning, sluicing, and the use of hand tools can be used outside of the water, but restricted to barren gravel bars. No bank under cutting.

3. Season of use for dredging will follow the time periods in the California Department of Fish and Game permits.

4. Equipment permitted: gold pan, pick and shovel, crevasse tool, ice pick, wire hook, pry bar, sluice box, rocker (hand carried), suction dredge with intake 4 inches or less, and metal detectors.

5. Maximum length of stay is 30 days at any one area designated for recreation panning, sluicing, and dredging.

6. Annual permit is required with a $35 fee. Two people allowed per permit. Permits must be presented at the site upon demand.

7. Dredging must be 300 feet from developed campgrounds and used only from 10 am to 4 pm.

8. All equipment out of the water by 6 pm.

9. No motorized or mechanized equipment in the Wild Zone of the Middle Fork Wild and Scenic River.

Summary

In order for the Forest Service to authorize recreation panning, sluicing, and dredging within lands classified as withdrawals, the suggestions recommended by Mr. Cummings, Deputy Assistant General Council, were addressed. Minerals in valuable mineral deposits was discussed as was the need to prepare special legislation for recreation panning, sluicing, and dredging.

The 1872 Mining Law never considered mining to be anything else but a commercial activity. The law requires one to locate a valuable mineral deposit and process the minerals in a business-like manner. By definition of recreation panning, sluicing, and dredging, and administrative law judge rulings that define the difference between recreation mining and mining as the real thing, recreational panning, sluicing, and dredging does not fall within the authority of the Mining Laws, nor the language in withdrawal statutes that pertain to mining.

Under the authority of the Secretary of Agriculture, special legislation can be prepared to authorize designation of recreation panning, sluicing, and dredging areas. Under the authority of the Organic Administration Act of 1872, the Land and Water Conservation Fund Act of 1964, and National Forest Management Act of 1976, the use and occupancy of designated special areas can be regulated for unique recreation activities. Under 36 CFR 294 classified areas may be set apart and reserved for public recreation use that will constitute a formal closing of the area to any other use or occupancy. Recreation areas may be administratively designated for a particular recreation opportunity of which rockhounding and recreation mining are included (FSM 2372.05 (7)). When the notification of special areas are listed in the Federal Register informing the public of location, regulation and fee structure if any, the authority for the Forest Service to manage these areas for recreation panning, sluicing, and dredging will have the same impact as statutes.

On April 22, 1986, notice was given in the Federal Register, pg. 15249 for new regulations pertaining to hardrock leasing (now 43 CFR 3560.7). These regulations provide direction to the Secretary of Agriculture for the permitting of mineral specimen collecting on acquired lands. This authority provides for the establishment and permitting of recreation panning. sluicing, and dredging areas on National Forest acquired lands.

Recreation mining is not referred to by definition in Forest Service documents, but is referred to as a recreation opportunity or activity in FSM 2372.05. Since Forest Service documents do not address the definition of recreation panning, sluicing, and dredging, the following definition is recommended for Forest Service use:

Definition: Recreation panning, sluicing, and dredging is defined as a leisure activity collecting minerals for non-commercial purposes (e.g. recreation, hobby collecting, scientific or research specimens, etc.). Equipment is limited to light hand tools, gold pans, sluices, and dredges restricted to a 4 inch or less suction device.

Areas considered acceptable for designation of "recreation panning, sluicing, and dredging areas" will include: 1) acquired lands, 2) power site withdrawals with the consent of the surface management agency, 3) existing recreation administrative withdrawals, and 4) new withdrawals for the purpose of recreation panning, sluicing, and dredging in that order. New withdrawals as recommended by Bob Jensen in a previous paper of the same topic and in the Plumas Forest Land and Resource Management Plan is not the best alternative for the following reasons: The mining community supports the use of existing withdrawals for recreation panning, sluicing, and dredging and recommend not to have more land removed from regulation under the Mining Laws; the Director of the BLM has stated that he would like to see the creation of new withdrawals held to a minimum and recommend those that are absolutely necessary; and other alternatives areas are available that will provide the same opportunity.

Steps were identified to finalized designation of special areas:

1. Prepare an environmental analysis for the establishment of recreation panning, sluicing, and dredging areas.

2. Develop a recreation panning, sluicing, and dredging management plan for the Plumas National Forest.

3. Prepare documents for the Forest Land and Resource Management Plan to include the new special areas and the management direction for recreation panning, sluicing, and dredging.

4. Follow procedures in the Federal Register Handbook for notification in the Federal Register of the Special Area designation.

5. Develop a system for collecting fees, either through a special use permit or fee envelopes.

6. Develop documents for inclusion of fees for recreation panning, sluicing, and dredging in new legislation approving fee schedules.

7. Sign, post regulations, and designate boundaries on the ground for the special areas.

Regulations recommended for recreation panning, sluicing and dredging areas were developed based on the user survey and review of the forest and other agency's policies which manage similar recreation activities.

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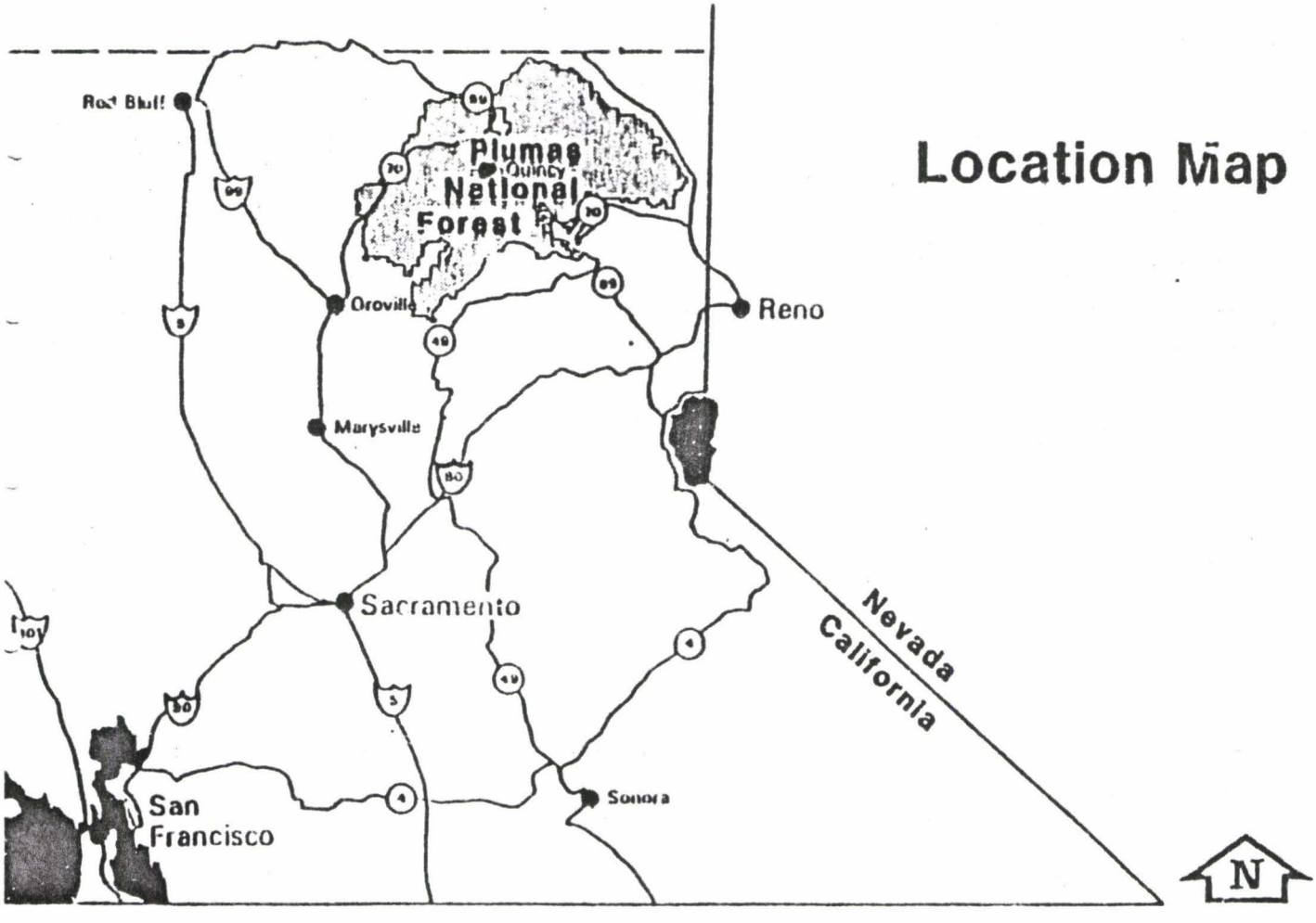
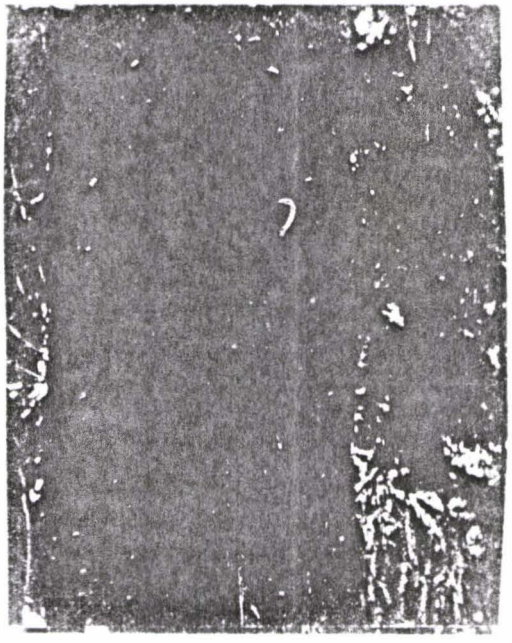
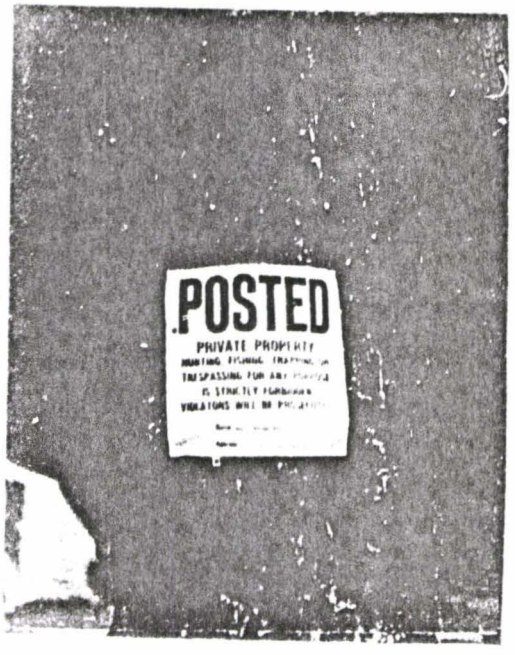


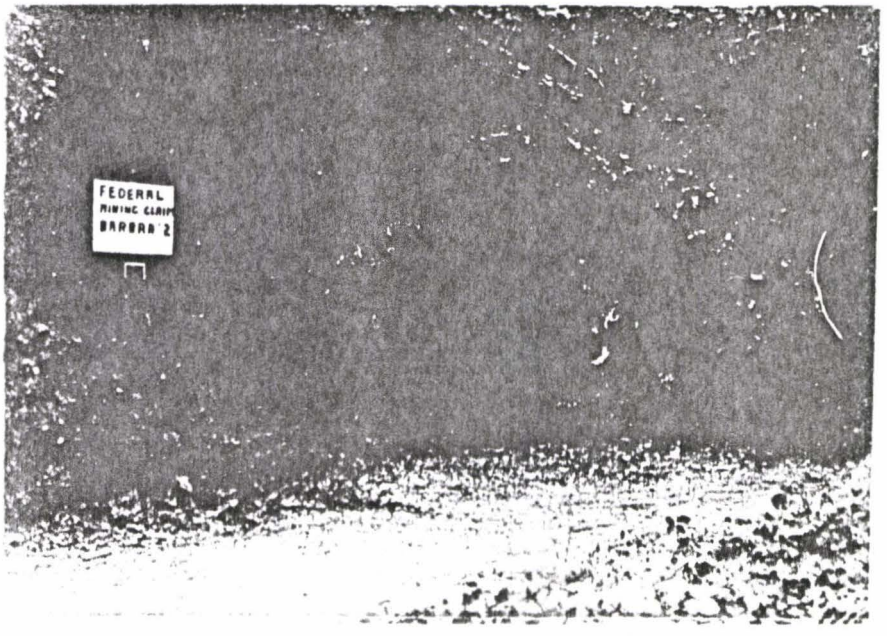
Location Map

APPENDIX 2

These photos depict features that are objectionable to the public and discourage acceptable [illegible] lands.







1989 User Survey Results
Recreation Mineral Collecting

1. Where do you live? Butte, Placer, Nevada, Yuba, Sacramento Counties and the Reno/Sparks area.

2. Do you have a mining claim? Yes 16% No 84%

3. If you do not have a mining claim, where do you pursue your mining activities? American River, Feather River, West Branch Feather River, Nelson Creek, South Fork Feather River, Yuba River, Bear Creek, Siskiyou co., and club claims.

4. Have you gone to a National Forest looking for an area to collect minerals and found difficulty in locating a spot to occupy for that purpose? Yes 61% No 10%

5. How many times a year are you involved in recreation mineral collecting, if any? 14 days or less 21% 14 to 28 days 10% 90 days 21% Not sure 48%

6. What age group would you put yourself in?

18 - 25 years	4%
26 - 40 years	16%
41-50 years	20%
51-65 years	42%
over 65	18%

7. When do you pursue your mining activities? Weekends 39% One week per year 5% Two weeks per year 15% More than two weeks per year 41%

8. What type of equipment do you use?

Dredge 32% size: 2" 2.5" 3" 4" 5" larger
12% 12% 24% 26% 14% 12%

Pan 33%

Sluice 23%

Concentrator 8%

Metal Detector 5%

Heavy Equipment 1%

9. Do you feel it would be appropriate to have special areas in the National Forest for people to pursue recreation mineral collecting? Yes 71% No 6% No answer 23%.

10. What is your definition of recreation mineral collecting:

Fun, temporary use of an area, Family Fun

Collecting minerals part-time	Club Activities
Not having to process a claim	Small Outings
Not earning wages	Pleasure, Hobby
Learning	Rockhound

11. What equipment do you feel would fall in the category of recreation mineral collecting? Gold pan, sluice box, dredge (small size to 8"), metal detector, rocker, high bank equipment. Those who indicated they had a claim checked 6" and 8' dredge. Most people indicated gold pan, sluice, and dredge under 4".

12. If special areas were established, what would you say about the number of people that should be there at one time working a stream or river bank? 30 square feet/person, 1 person/150 feet, 1 person/100 feet, 1 person/250 feet, 5 people/100 feet, and 4 people/100 feet, 10 people/100 yards. Several people indicated that it would depend on the size of the area.

13. How do you feel about obtaining a permit to use a special area designated for recreation mineral collecting? Yes 54% No 21% Did not care 25%

14. If special areas are established, Forest Service expense will be involved in administration, signing and cleanup. What is the maximum fee you would pay per day to use a special area? $1.00 - 25%; $2.00 - 20%; $3.00 - 15%; $4.00 - 25%; Split $1.00 pan, $4.00 dredge - 15%; and none 5%. Note: several indicated they would not want to get a permit, but would be willing to pay a fee.

15. Any ideas on fee structure? Don't raise fees each year, base fee on improvements, flat fee/year, if you provide a good service fees are acceptable, 30 day max stay, 2 week max stay, and provide discounts to seniors.

16. Would you or your club be interested in helping the Forest Service manage a special area for recreation mineral collecting? Yes 36% No 5% No comment 59%.

17. Additional comments:

Use host program, manage the areas through the clubs.

Have California Department of Fish and Game collect fees.

Have clubs help.

Have one time yearly permits.

Open withdrawal to recreational mineral collecting.

Annual permits.

Should be open, we pay enough in taxes now.

APPENDIX 4

We Are Not Just Another Gold Mining Club, We Are...

THE NEW 49'ers

We are the world's fastest-growing mining club–with more excellent mining property, camping privileges, training programs and assistance–and more g[illegible] opportunities than any other mining organization. Our members recovered in excess of an estimated $300,000 in gold from our Klamath River claims during each of the last two seasons–and the surface of our claims on this river has barely been scratched! We are a serious recreational and professional mining club–serious about recovering gold.

PURPOSE: The purpose of THE NEW 49'ers is to create better mining opportunities for our members, and to help more people become successful gold miners–on all scales.

PROPERTY: We have miles upon miles of proven mining property. We have property in California, Arizona, Idaho, and Oregon, and we are constantly looking for more proven mining claims for our members to work.

TRAINING: During the mining season, we have an ongoing program, providing our members with the best training opportunities available today in sampling, highbanking, gold dredging, panning, amalgamation and gold clean-up procedures, and other gold mining techniques.

CAMPING: Members may camp free and mine on our claims as long as they like. We are expanding camping areas on a continuous basis. Commercial campgrounds, RV parks and motels are also locally available.

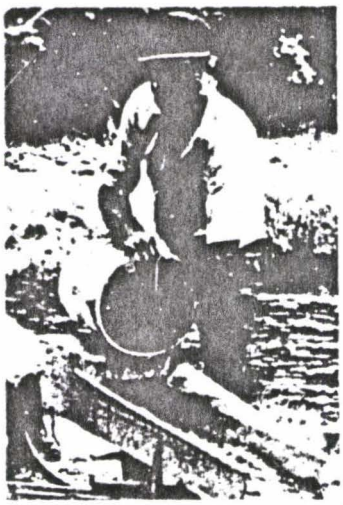
EQUIPMENT DISCOUNTS: NEW 49'er members receive a 10% discount on equipment and gear from selected mining stores, and on all items not otherwise marked in this catalog.

FRIENDSHIP: THE NEW 49'ers are miners really willing to help each other. The camaraderie we have created makes our club atmosphere a truly great experience. We are, "Miners helping Miners!"

SUCCESS: Most of our active members say, because of the quality of our claims, training and assistance, they recover more gold on our claims than on any previous mining venture.

TRIAL WEEK: We offer one week on our claims for individuals at $100, families at $125. Come on out and give us a try. Then decide whether or not you want to join our organization. Keep all the gold you find. Be sure to bring your California Dredging Permit.

NEW 1990 CLUB VIDEO AVAILABLE–FREE: This video really shows our success, expansion and the strength of our members. It is really worth watching if you are interested in our club.



Name _____ Spouse _____

Address _____ Phone _____

City, State, Zip _____

☐ Please send me a complete free information packet on The NEW 49'ers Prospecting Club.
☐ My refundable $20 is enclosed. Please send me your free 30-minute Club video.
☐ Please enroll me as a lifetime member of THE NEW 49'ers. My check or charge in the amount of $2,625 is enclosed for full payment.
☐ Please enroll me as a member of The NEW 49'ers under the extended payment plan. Enclosed is my down payment of $300. I understand that my balance of $3,200 will be paid $35 or more each month until fully paid.
☐ Please charge my ☐ Mastercard ☐ Visa ☐ Enclosed is my check made payable to THE NEW 49'ers

CC# _____ Exp. date _____ Signature _____

National Headquarters
63632 Highway 96 PO Box 47
Happy Camp, CA 96039 • (916) 493-2012

ALL MEMBERSHIPS TRANSFERABLE

Southwestern Headquarters
900 West Apache Trail
Apache Junction, AZ 85220 • (602) 983-3484

Public Lands Title

TITLE • RESEARCH • PERMITTING

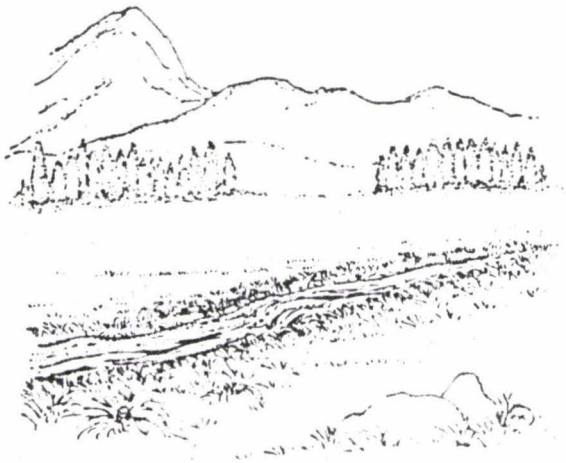
(916) 273-1990

P.O. Box 2082 • Grass Valley, California 95945

STAKING YOUR CLAIM ON GOVERNMENT LAND

So what's this all about, can I really own my own 20 acre claim on Government Land? The answer to that question is YES YOU CAN. People like yourself are filing their own claims in many different states: like: Alaska, Arizona, Arkansas, California, Colorado, Florida, Idaho, Louisiana, Mississippi, Montana, Nevada, Nebraska, New Mexico, North and South Dakota, Oregon, Utah, Washington and Wyoming. Anyone who is of legal age and is a citizen of the United States has the right to do so. That right and privilege was put into law for us by the congress of the United States.

These claims can differ in size if you wish. They can vary from as small as 5 acres on up to as large as 20 acres. The normal size is 20 acres; if you're married you may claim 40 acres. No *one* individual can stake a *single claim* that is more than 20 acres in size. If you wish to claim additional acreage, you may do so by claiming additional 5 to 20 acre locations side by side.



There are many questions that come to mind when thinking of filing a claim. Over the years the following have been the most important and most frequently asked:

1. Do I own this claim or is it some kind of a lease?
   Ans. You own the claim, it is not a lease.

2. Do I have to buy this from the government?
   Ans. No; there is nothing to buy; the only charge is the $20 filing fee.

3. Are there any hidden charges for this?
   Ans. No; not to us or to the government. (see question #10)

4. Do I have to live on what I have claimed?
   Ans. No you don't. You don't have to clear the land either.

5. Is this like homesteading?
   Ans. Not really, there are some similarities but for the most part this is much less expensive and definitely a lot easier.

6. Are these claimable areas stuck way out in the boonies?
   Ans. Only if you want them to be. There are large designated areas set aside for this purpose. Maps and other information in the complete packet will indicate that you may locate next to a paved road, a river or creek, a lake, a dirt road or no road at all; it's up to you.

7. Are these areas in the desert or in mountains.

Ans. Both, again it's up to you. The information we provide will enable you to select the type of area you prefer; be it mountains or desert.

8. Can I pass on (will) what I have claimed to my family.
   Ans. Yes you can. You may also rent or lease it to others as well as sell it if you wish to do so.

9. This seems too good to be true what's the catch? There must be something hidden that I have to do.
   Ans. The only thing that could be considered hidden or mandatory is what's called "assessment work." This is the work or expense that must be done to enable you to maintain what you have claimed. This amount is $100 per year per claim. An example of this is: you as the owner of your claim can spend $100 cash per year on your claim or you can spend $100 worth of self labor on your claim. If you value your labor at $5 per hour then you must spend 20 hours per year working on your claim to be in compliance with the law. ($5 per hour x 20 hours = $100 value of assessment work.)

10. Do I have to pay taxes on what I claim?
    Ans. Yes. Most counties in most of the states listed do charge taxes. The taxes are usually limited to $1 per acre per year. If you have claimed the normal 20 acres you could be responsible for $20 per year. A number of counties don't charge taxes at all but if you select a county that does, $20 per year isn't too hard to take.

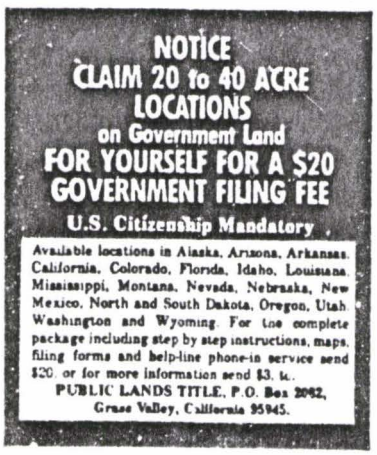
11. Is it possible to have friends locate next to me?
    Ans. Yes, and you may locate additional claims next to your first one too as long as you are willing to take the responsibility for the taxes and the assessment work. If you don't you will loose what you have claimed and someone else can claim it.

12. Do I get the mineral rights with my claim?
    Ans. Yes you do. This is a very important fact that may be of great value to you.

13. Is this going to be a hard thing to do that takes a long waiting time?
    Ans. No; Public Lands Title has been helping people and companies for years and it is easy and fast as long as you know how and can fill out the proper form; and that's why we include all necessary information in the complete packet. Once you have read your complete packet you will know how to file your claim right away, and the government will accept your filing in one day.

14. Do I really have to be a citizen of the United States to qualify for this?
    Ans. Yes, if you are not a citizen and you try to file a claim the government will not allow you to keep it.

We hope these questions and answers have helped you. The complete packet that Public Lands Title has compiled for you goes into depth and is very easy to follow and comprehend. The complete packet is laid out in a step by step format. The actual claim form that we provide is a "fill in the blank" type with complete instructions. If you should need personal assistance with anything, we've included a list of offices for each state that you can go to and get personal assistance at no additional charge to you. If you wish you may phone us and ask for our research department and we will help you. (Please no collect phone calls, and phone during normal business hours.) The coupon on the next page is for you to send in for your complete packet. Please notice that you will be credited with the first $3 you sent in; therefore send only $17 and not the $20 indicated in the advertisement. You must send your coupon to qualify for your credit. Your $17 completely covers the cost of all states; *do not send* $17 per state.


NOTICE
CLAIM 20 to 40 ACRE LOCATIONS
on Government Land
FOR YOURSELF FOR A $20 GOVERNMENT FILING FEE
U.S. Citizenship Mandatory
Available locations in Alaska, Arizona, Arkansas, California, Colorado, Florida, Idaho, Louisiana, Mississippi, Montana, Nevada, Nebraska, New Mexico, North and South Dakota, Oregon, Utah Washington and Wyoming. For the complete package including step by step instructions, maps, filing forms and help-line phone-in service send $20. or for more information send $3. to.
PUBLIC LANDS TITLE, P.O. Box 2042, Grass Valley, California 95945.

Please allow approximately 30 days for your check to clear. If you need your complete packet right away, please send a money order and place an X in the "PLEASE RUSH" box on your coupon.

THIS COUPON ENTITLES ME TO A $3 CREDIT ON MY PACKET

Yes I do want my complete packet on how I can file my own claim on government land. I understand that I can claim up to 20 acres for myself per claim, and that I can file more than one claim as long as I am a U.S. citizen. I understand that I can phone Public Lands Title for further assistance if I need help once I have received my complete package, as long as I pay for the call, and that there will be no extra charge for the help.

I have enclosed **$17**, please send me my complete packet including my filing form as soon as possible.

Name _____

Street _____

City _____ State _____ Zip _____

Public Lands Title
P.O. Box 2042
Grass Valley, California 95945

☐ PLEASE RUSH — Note that I have included a money order for payment; please process my order at once.